

97254-117261
1003496

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

LYKINS OIL COMPANY,)	CASE NO. 1:08CV546
)	
Plaintiff,)	
)	
-vs-)	DEFENDANT'S NOTICE OF
)	REMOVAL OF CIVIL ACTION
TRAVELERS CASUALTY AND)	
SURETY COMPANY OF AMERICA,)	
)	
Defendant.)	

Now comes Defendant Travelers Casualty and Surety Company of America ("Travelers") by and through undersigned counsel and with full reservation of any and all rights and defenses, respectfully petition this Court, pursuant to 28 U.S.C. §§ 1441, 1446 and 1332 to remove this civil action from the Court of Common Pleas, Clermont County, State of Ohio, to the United States District Court for the Southern District, Western Division. Removal to this Court is proper for the reasons set forth below:

1. Travelers is a Defendant in a civil action pending in the Court of Common Pleas, Clermont County, State of Ohio, entitled *Lykins Oil Company v. Travelers Casualty and Surety Company of America*, Case No. 2008CVH01467. The Complaint was filed July 18, 2008 and the Summons issued to Travelers on July 18, 2008.

2. On or about July 24, 2008 Travelers was served with the Complaint. A copy of the Complaint served on Travelers is attached as Exhibit A. This Notice of Removal is being filed within thirty (30) days from the date of receipt of the Complaint, and is, therefore, timely pursuant to 28 U.S.C. § 1446(b).
3. Travelers has a right to remove this action to this Honorable Federal District Court pursuant to 28 U.S.C. § 1441, et seq. and to invoke this Court's diversity citizenship jurisdiction pursuant to 28 U.S.C. § 1332.
4. Plaintiff is incorporated under the laws of the State of Ohio having its principal place of business in the State of Ohio.
5. Defendant Travelers Casualty and Surety Company of America is incorporated under the laws of the State of Connecticut having its principal place of business in the State of Connecticut.
6. The United States District Court has jurisdiction over this civil action, pursuant to 28 U.S.C. § 1332, because complete diversity between Plaintiff and Defendant exists.
7. Plaintiff's Complaint seeks a Declaratory Judgment that the insurance policy issued to Plaintiff by Travelers provides coverage for Plaintiff's losses, and Plaintiff's Complaint asserts a claim for bad faith. Plaintiff's Complaint seeks compensatory damages of "One Million Six Hundred Thousand Dollars Two Hundred Eight and 78/100 Dollars (\$1,680,208.78)" [sic] and an unspecified amount of punitive damages for Defendant's alleged bad faith. Because Plaintiff alleges its damages exceed Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs, the United States District Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a).

8. The United States District Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 2201, which provides jurisdiction over Declaratory Judgment actions.
9. A copy of this Notice of Removal has been filed with the appropriate state court pursuant to 28 U.S.C. § 1446(d) and is attached as Exhibit B.
10. No bond is being filed as such former requirement was abolished by the Judicial Improvements and Access to Justice Act of 1988 (PUB. L NO. 100702, which became law on November 19, 1988).

WHEREFORE, Defendant Travelers Casualty and Surety Company of America hereby removes this action from the Court of Common Pleas, Clermont County, Ohio to this Honorable Court.

Respectfully submitted,

s/ D John Travis

D JOHN TRAVIS (0011247)

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Attorney for Defendant Travelers Casualty and
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CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Removal was filed electronically on the 14th day of August 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic filing system.

s/D John Travis

D JOHN TRAVIS (0011247)

Attorney for Defendant

Also, this Notice of Removal has been sent via U.S. mail on the 14th day of August 2008 to the following:

Peter A. Saba, Esq.

Susanna L. Fai, Esq.

Finney, Stagnaro, Saba & Patterson Co., L.P.A.

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Cincinnati, Ohio 45208

Attorneys for Plaintiff

S/ D John Travis

D JOHN TRAVIS (0011247)

Attorneys for Defendant